

Amendment

OLD RULE STRIKETHROUGH

PROPOSED CHANGES UNDERLINE

Notice of Rulemaking Hearing
Tennessee Department of Environment And Conservation
Division of Air Pollution Control

There will be a public hearing before the Technical Secretary of the Tennessee Air Pollution Control Board to consider the promulgation of an amendment to the Tennessee Air Pollution Control Regulations and the State Implementation Plan pursuant to Tennessee Code Annotated, Section 68-201-105. The comments received at this hearing will be presented to the Tennessee Air Pollution Control Board for their consideration in regards to the proposed regulatory amendment. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-201 et. seq. and will take place in the 9th Floor Conference Room of the L & C Annex, located at 401 Church Street, Nashville, Tennessee 37243-1531 at 9:30 a.m. on the 18th day of January, 2005.

Written comments will be included in the hearing records if received by the close of business January 18, 2005, at the office of the Technical Secretary, Tennessee Air Pollution Control Board, 9th Floor, L & C Annex, 401 Church Street, Nashville, TN 37243-1531.

Any individuals with disabilities who wish to participate in these proceedings (or to review these filings) should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be in person, by writing, telephone, or other means, and should be made no less than ten (10) days prior to (January 18, 2005) or the date such party intends to review such filings, to allow time to provide such aid or service. Contact the Tennessee Department of Environment and Conservation ADA Coordinator, 21st Floor, 401 Church Street, Nashville TN 37243, (615) 532-0103. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298).

If you have any questions about the origination of this rule change, you may contact Mr. Jeff Cales at 931-432-7621. For complete copies of the text of the notice, please contact Mr. Malcolm Butler, Department of Environment and Conservation, 9th Floor, L & C Tower, 401 Church Street, Nashville, TN 37243, telephone 615-532-0600.

Summary of Proposed Changes

Chapter 1200-3-2
Definitions

Amendments

Subparagraph (c) of paragraph (1) of rule 1200-3-2-.01 GENERAL DEFINITIONS is amended by adding a definition for “air curtain destructor or air curtain incinerator”. Subparagraph (w) of paragraph (1) of rule 1200-3-2-.01 GENERAL DEFINITIONS is amended by including wigwam burners, air curtain destructors, and air curtain incinerators in the definition for incinerator. The proposal essentially redefines wigwam burners, air curtain destructors, and air curtain incinerators as incineration and not open burning, so as to require all regulated units to obtain individual permits for implementation of recently required new standards for those units. These changes are necessary to more effectively regulate incineration statewide.

Text of Proposed Changes

Chapter 1200-3-2 Definitions

1200-3-2-.01 GENERAL DEFINITIONS.

(1) The following terms shall, unless the context clearly indicates otherwise, have the following meaning:

- (c) **Reserved. “Air Curtain Destructor or Air Curtain Incinerator” is a portable or stationary combustion device that directs a plane of high velocity forced draft air through a manifold head into a burn chamber with vertical walls in such a manner as to maintain a curtain of air over the surface of the burn chamber and a recirculating motion of air under the curtain.**
- (w) Incinerator is any equipment, device, or contrivance used for disposal of waste or refuse by burning, **excluding including** wigwam burners, air curtain destructors, and air curtain incinerators. **However, wigwam burners, air curtain destructors, and air curtain incinerators may be treated as incinerators in New Source Performance Standards and standards developed to implement guideline standards and requirements promulgated by the EPA.**

Chapter 1200-3-4
Open Burning

Amendment

Subparagraph (a) of paragraph (1) of rule 1200-3-4-.02 DEFINITIONS is amended by deleting the definition for “air curtain destructor or air curtain incinerator” as a definition would be added to rule 1200-3-2-.01 GENERAL DEFINITIONS. Subparagraph (d) of paragraph (1) of rule 1200-3-4-.02 DEFINITIONS is amended by adding clarifying language to the existing definition for “open burning” to explicitly state that the use an air curtain destructor or air curtain incinerator is incineration, and is not open burning. These changes are necessary to more effectively regulate incineration statewide.

Text of Proposed Changes

Chapter 1200-3-4
Open Burning

1200-3-4-.02 DEFINITIONS.

1. As used in this chapter, all terms not defined herein shall have the meaning given them in chapter 1200-3-2.

- a. ~~“Air Curtain Destructor or Air Curtain Incinerator” is a portable or stationary combustion device that directs a plane of high velocity forced draft air through a manifold head into a burn chamber with vertical walls in such a manner as to maintain a curtain of air over the surface of the burn chamber and a recirculating motion of air under the curtain. The use of an air curtain destructor or air curtain incinerator is considered controlled open burning subject to opacity requirements as stated elsewhere. Repealed.~~
- d. “Open Burning” is the burning of any matter under such conditions that products of combustion are emitted directly into the open atmosphere without passing directly through a stack. The use of an air curtain destructor or air curtain incinerator is considered incineration subject to the permitting requirements of

Rule 1200-3-9, and is explicitly not considered open burning.

Chapter 1200-3-4
Open Burning

Amendment

Paragraph (6) of rule 1200-3-4.03 OPEN BURNING PROHIBITED is amended by deleting the entire paragraph, as air curtain destructors or air curtain incinerators would require individual incineration permits, with applicable requirements stated in the individual permit. This change is necessary to more effectively regulate incineration statewide.

Text of Proposed Change

Chapter 1200-3-4
Open Burning

1200-3-4-.03 OPEN BURNING PROHIBITED.

- (6) ~~Notwithstanding provisions in rule 1200-3-4-.04 below, the owner or operator of an air curtain incinerator subject to the standards and requirements of a New Source Performance Standard or the provisions of rule 1200-3-6-.06 shall satisfy those standards and requirements and any requirements that evolve from being subject to those standards and requirements, e.g., major source permitting. This qualification to the exceptions stated in rule 1200-3-4-.04 below shall not apply with regard to the burning of wood or wood waste, as defined in Paragraph 1200-3-6-.05(3) and Rule 1200-3-4-.02, respectively, solely for the disposition of such wood or wood waste. Therefore, the burning of wood or wood waste solely for the disposition of such wood or wood waste shall continue to be treated as exempt from regulation under this Chapter 1200-3-4 and shall not be subject to any standards or~~

~~requirements of a New Source Performance Standard or the provisions of rule 1200-3-6-.06. Repealed.~~

Chapter 1200-3-4
Open Burning

Amendment

Subparagraph (k) of paragraph (1) of rule 1200-3-4-.04 EXCEPTIONS TO PROHIBITION is amended by deleting the entire paragraph, as air curtain destructors or air curtain incinerators would require individual incineration permits, with applicable requirements stated in the individual permit. This change is necessary to more effectively regulate incineration statewide.

Text of Proposed Change

Chapter 1200-3-4
Open Burning

1200-3-4-.04 EXCEPTIONS TO PROHIBITION.

- (1) Open burning, as listed below, may be conducted subject to specified limitations. This grant of exception shall in no way relieve the person responsible for such burning from the consequences, damages, injuries, or claims resulting from such burning.

- (k) **~~Open burning of the following materials, when an air curtain destructor is used, and when conducted in conformity with the following conditions: non-radioactive, explosive, shock sensitive, chemically unstable, or highly reactive wastes, packaging, or contaminated or potentially contaminated combustible materials which cannot be safely disposed of by other methods; any vegetation; manufactured lumber products not chemically treated to prevent insect or rot damage, such as plywood, fiberboard, and paneling; and uncoated paper and uncoated cardboard, both of which~~**

~~constitute less than ten (10) percent of the total weight of material burned on a daily basis. Additionally, the person responsible for such burning must certify compliance with the distance requirements by written statement. The certification must include the types and amounts of materials projected to be burned, a statement explaining why alternate disposal methods cannot be utilized, and must be delivered to the Division of Air Pollution Control at the appropriate regional Environmental Assistance Center at least ten (10) working days prior to commencing the burn:~~

- ~~1. The open burning site must be at least five hundred (500) feet from any Federal or State highways.~~
- ~~2. The open burning site must be at least one thousand (1,000) feet from any school, national or state park, national reservation, national or state forest, wildlife area, and/or residence not on the same property as the air curtain destructor.~~
- ~~3. The open burning site must be at least one-half (1/2) mile from any airport, nursing home, or hospital.~~
- ~~4. The plume from the air curtain destructor must meet the visible emission standards specified in rule 1200-3-5-.01(1); however, for certain materials the Technical Secretary may allow one start-up period in excess of the standard, per day, not to exceed 20 minutes in 24 hours.~~

- ~~5. All material to be burned must be dry and in other respects be in a state to sustain good combustion.~~
- ~~6. No fire shall be ignited while any air pollution emergency episode is in effect in the area of the burn.~~
- ~~7. Open burning must be conducted when ambient conditions are such that good dispersion of combustion products will result.~~
- ~~8. For open burning exceeding one month in duration, alternate disposal methods must be investigated and a written report of progress must be delivered to the Division of Air Pollution Control at the appropriate regional Environmental Assistance Center by February 1 of each year.~~
- ~~9. All changes in types of, or increase in quantities of materials burned must be preceded by notification. The notification must be delivered to the Division of Air Pollution Control at the appropriate regional Environmental Assistance Center at least ten (10) working days prior to commencing the change in the burn. Repealed.~~

Chapter 1200-3-9
Construction and Operating Permits

Amendments

Item 3. of subparagraph (d) of paragraph (4) of rule 1200-3-9-.04 EXEMPTIONS is amended by adding clarifying language and deleting antiquated and unnecessary references to non-existent open burning permits, as air curtain destructors or air curtain incinerators would require individual incineration permits, with applicable requirements

stated in the individual permit. Item 7. of subparagraph (f) of paragraph (5) of rule 1200-3-9.04 EXEMPTIONS is amended by substituting clarifying language for antiquated and unnecessary references to non-existent open burning permits, as air curtain destructors or air curtain incinerators would require individual incineration permits, with applicable requirements stated in the individual permit. These changes are necessary to more effectively regulate incineration statewide.

Text of Proposed Changes

Chapter 1200-3-9 Construction and Operating Permits

1200-3-9-.04 EXEMPTIONS.

- (4) The list of exempted air contaminant sources contained in this paragraph shall not be used as “insignificant activities” or “insignificant emission units” when applying for a major source operating permit under paragraph 1200-3-9-.02(11). These exemptions shall not be used to lower the source’s potential to emit below “major source” applicability thresholds or to avoid any “applicable requirement”. Otherwise, no person shall be required to obtain or file a request for a permit due to ownership, operation, construction, or modification of the following types of air contaminant sources unless specifically required to do so by the Board or as provided for in paragraph (3) of this rule:

- (d) Any one of the following emission units or activities:

Such emission units or activities are not required to be listed in the construction or operating permit applications for the facility.

3. Any air contaminant source constructed and operated at a domestic residence **solely** for domestic use ~~except where Chapter 1200-3-4, Open Burning, requires permit issuance, or where open burning is expressly prohibited.~~

(5) MAJOR SOURCE OPERATING PERMITS INSIGNIFICANT EMISSION UNITS

- (f) Unless specifically required under part 1200-3-9-.04(5)(b)4., the following emission units or activities, or stationary sources that qualify as ‘insignificant activities’, with the exception of parts 19. and 84. of this subparagraph, are not required to be included in a permit application under paragraph 1200-3-9-.02(11). For the following listed activities to be considered insignificant, with the exception of parts 1., 2., 19., and 84 of this subparagraph, the emissions unit or activity must have a potential to emit less than 5 tons per year of each regulated air pollutant that is not a hazardous air pollutant and less than 1000 pounds per year of each hazardous air pollutant. No emissions unit or activity subject to a federally enforceable applicable requirement (other than generally applicable requirements of the state implementation plan) shall qualify as an insignificant emissions unit or activity.

7. Operations ~~exempted~~ **regulated** under Chapter 1200-3-4 (Open Burning) of these Regulations.

Legal Contact and/or party who will approve final copy for publication:

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